

DECLARATION FOR PATENT APPLICATION



As one of the below named inventor(s), I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name.

I believe the named inventor(s) to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled: ANTIBIOTIC TREATED IMPLANTABLE MEDICAL DEVICES, (Atty. Docket # CMI-397), the specification of which is attached hereto.

I believe I am a joint inventor of the subject matter claimed.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, SEC. 1.56(a).

I hereby appoint the following attorney(s) to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith, with power of substitution:

David S. Wise, Reg. No. 30,511
Kenneth S. Barrow, Reg. No. 36,085
Timothy L. Scott, Reg. No. 37,931
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that

willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

DECLARATION SIGNATURE SHEET

2/9/2001
Date

Inventor's Signature



Joseph Andrew Chinn

(Type) Inventor's Name

Citizenship: U.S.A.
P.O. Address: same

Residence: 6105 Bull Creek Rd.
Austin, Texas 78757

2/12/2001
Date

Inventor's Signature



R. Michael Casanova

(Type) Inventor's Name

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P.O. Address: same

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Joseph A. Chinn
R. Michael Casanova

Attorney Docket: CMI-397

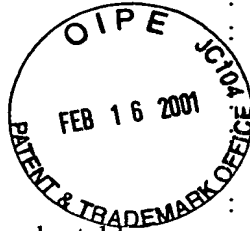
S/N: 09/746,712

Filed: 12/21/00

For: Antibiotic Treated Implantable
Medical Devices

Group: N/A

Examiner: N/A



Assistant Commissioner for Patents
Washington, D.C. 20231

**DECLARATION OF TIMOTHY I. SCOTT ACCOMPANYING RESPONSE
TO NOTICE OF MISSING PARTS AND PETITION TO ACCORD
FILING DATE UNDER 37 C.F.R. §§1.182 AND 1.17(h)**

1. I am Senior Patent Counsel for Sulzer Medica USA, Inc., the parent company to Sulzer Carbomedics, Inc. ("Carbomedics"), the assignee of the present application.
2. My duties as Senior Patent Counsel include filing new patent applications on behalf of Carbomedics, and other patent prosecution related responsibilities.
3. On December 20, 2000, I filed an application (different from the present application) on behalf of Carbomedics as attorney docket number CMI-379, by depositing the application with the United States Postal Service by Express Mail. Documents confirming this deposit are enclosed herewith.
4. On December 21, 2000, I filed the instant application on behalf of Carbomedics as attorney docket number CMI-397, by depositing the application with the United States Postal Service by Express Mail. Documents confirming this deposit are enclosed herewith.
5. Through inadvertent confusion of the CMI-397 and CMI-379 applications, I erroneously submitted the drawings intended for the CMI-397 application in connection with CMI-379. Similarly, I erroneously submitted the drawings for the CMI-379 application in the filing of the CMI-397 application. This error can be

verified though examination of both Applications, which remain in the possession of the United States Patent and Trademark Office. This error is also shown in the filing papers for the respective applications, which reveal that the applications were filed with an incorrect number of drawings (i.e., CMI-379 was erroneously filed with 5 drawings pages corresponding to Figures 1-7 of the CMI-397 application, and CMI-397 was erroneously filed with 3 drawings pages corresponding to Figures 1-4 of the CMI-379 application).

6. The entire subject matter for both the CMI-397 and CMI-379 applications was deposited with the United States Postal Service by Express Mail no later than December 21, 2000.
7. The inadvertent exchange of the drawings for the two applications referenced in paragraphs 3-5 above was discovered on Tuesday, February 6, 2001 when the Notice of Missing Parts for CMI-397 was received.
8. The present Response and Petition is being filed promptly upon discovery of the error and execution of the declaration and assignment for this Application.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 02/13/01.

02/13/01
Date

Respectfully submitted,

Timothy L. Scott
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, DC 20231

on 02/13/01
(Date)

Heather Green

(Name of person making deposit)

Heather Green

(Signature)